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Via ECF

April 28, 2023

The Honorable George B. Daniels
U.S. District Judge
United States District Court
Southern District of New York
Daniel P. Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

Re: In re Terrorist Attacks on September 11, 2001, No. 03-MDL-1570 (GBD) (SN); *Estate of John P. O'Neill, Sr., et al. v. Al Baraka Investment & Development Corp. et al.*, 04-cv-1923 (GBD) (SN); Pending Class Certification Motion and Report & Recommendation, ECF Nos. 5675, 6601

Dear Judge Daniels:

The *O'Neill* putative class representatives (*i.e.*, the O'Neill family) write jointly with defendants Dubai Islamic Bank ("DIB"), International Islamic Relief Organization ("IIRO"), Muslim World League ("MWL"), World Assembly of Muslim Youth ("WAMY"), and Yassin Kadi ("Kadi") (collectively the "*O'Neill* Defendants") regarding the pending motion for class certification, ECF No. 5675.

On October 15, 2019, the parties proposed a briefing schedule for the class certification motion "to have the issue . . . briefed and decided . . . prior to the final resolution of any dispositive motions so that the Parties will know whether the putative class members will be bound by the resolution of those motions." ECF No. 5210. In January 2020, the *O'Neill* putative class representatives filed a motion for class certification. ECF No. 5675.¹ On January 22, 2021, Judge Netburn recommended denying class certification. ECF No. 6601. The parties' objections and responses have been fully briefed. *See* ECF Nos. 6644, 6645, 6712, 6756.

In the interim, the Court dismissed DIB from the MDL for lack of personal jurisdiction. ECF No. 8911. Plaintiffs, with DIB's consent and the Court's permission, intend to appeal that personal jurisdiction decision as expeditiously as possible. However, the parties believe resolution of the class motion prior to any appeal would streamline the appeal and any future

¹ Related filings include ECF Nos. 5676, 5754, 5755, 5756, 5757, 6030, 6031, 6064, 6065, 6095, 6098, and 6112.

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proceedings. In short, the parties would like certainty as to which plaintiffs will be bound by the personal jurisdiction ruling regarding DIB, including any result on appeal. If class certification is denied, plaintiffs would like to amend their complaint prior to an appeal to add individual plaintiffs who were within the proposed class definition.

While the class motion was pending, the *O'Neill* Plaintiffs (which includes approximately 3,200 Anderson Kill 9/11 clients) and approximately 4,025 *Ashton* Plaintiffs²(collectively the “Class Plaintiffs”) and the *O'Neill* Defendants agreed to toll all statutes of limitation until 14 days after a final ruling from this Court on class certification.

In light of the foregoing, and the procedural posture of the case against DIB in particular, the *O'Neill* putative class representatives, the Class Plaintiffs, and the *O'Neill* Defendants believe that resolution of the class motion will help expedite and clarify future proceedings in this case.

We thank the Court for its attention to this matter.

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² *Ashton* Plaintiffs include plaintiffs represented by the following law firms: Kreindler & Kreindler, Speiser Krause, PC, Baumiester & Samuels, PC, the Law Office of Jonathan C. Reither, and the Law Office of John Schutty.

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cc: All MDL Counsel of Record (via ECF)